

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 7
December 2012

ARIZONA HB 2628
(CH 246)

ENACTED and EFFECTIVE April 11, 2012

Nonmonetary Eligibility

Denies benefits to instructional, research or principal administrative employees while in the employ of an entity that provides these professional services to or on behalf of an educational institution entity that provides these services to or on behalf of an educational institution between 2 successive academic years, or during a similar period between 2 successive or non successive regular terms, or during a period of paid sabbatical leave if the individual performed such professional services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform professional services for any educational institution entity that provides these services to or on behalf of an educational institution in the second of such academic years or terms. This between terms denial to professionals also applies to vacation or holiday periods within school years or terms.

Denies benefits to employees in any other nonprofessional capacity while in the employ of an entity that provides these nonprofessional services to or on behalf of an educational institution entity that provides these services to or on behalf of an educational institution between 2 successive academic years or terms if the individual performed such non professional services in the first of such academic years or terms and if there is a reasonable assurance that such individual will perform nonprofessional services for any educational institution entity that provides these services to or on behalf of an educational institution in the second of such academic years or terms, except that if benefits are denied and the individual was not offered an opportunity to perform nonprofessional services on behalf of an educational institution entity that provides these services to or on behalf of an educational institution the individual is entitled to a retroactive payment of benefits for each week a timely claim was filed. This between terms denial to nonprofessionals also applies to vacation or holiday periods within school years or terms.

Defines “contract educational provider” as a private, for-profit entity that is approved by the Department of Education to provide, and does provide, special education services to pupils from schools that offer instruction in kindergarten programs and grades 1-12.

Notwithstanding any other provisions of law, denies benefits based on services with a contract educational provider between two successive academic years or terms if the following conditions are met:

- The individual performs the services in the first of the successive academic years or terms.
- There is a reasonable assurance that the individual will perform the same services in the second of the academic years or terms.

Provides that if benefits are denied based on service with a contract educational provider, and the individual was not offered a contract for the second successive academic year or term, the individual is entitled to retroactive payments of benefits, provided a timely claim was filed.

Denies unemployment benefits based on service for a contract educational provider for any week that begins during an established and customary vacation period or holiday recess if there is reasonable assurance that the individual will perform the same services after the period/recess, and they were performing the same services in the period immediately before the period/recess.

CALIFORNIA	SB 1291	ENACTED September 7, 2012
	(CH 278)	EFFECTIVE September 7, 2012,
		unless noted

Extensions and Special Programs

Extends the operational date of the California Training Benefits (CTB) Program from January 1, 2015, to January 1, 2019.

Creates a requirement that a determination of automatic eligibility for these training benefits be issued to a permanent or probationary public school teacher who is a participant in a credential preparation program or training program approved or accredited by the Commission on Teacher Credentialing for additional certification in math, science, or special education, for kindergarten and grades 1 to 12, inclusive, and was laid off. (Effective January 1, 2014.)

DISTRICT OF COLUMBIA	B 743	ENACTED June 22, 2012
	(Law No. 168)	EFFECTIVE September 20, 2012

Administration

Provides that all correspondence, notices, determinations, or decisions may be transmitted to claimants, employers, or necessary parties by electronic mail or other means of communication as the claimant, employer, or necessary party may select from the alternative methods.

Provides that all correspondence, notices, determinations, or decisions issued by the Director, Department of Employment Services, may be signed by an electronic signature that complies with the requirements of D.C. Official Code Section 28-4917 and Mayor's Order 2009-118, issued June 25, 2009.

Extensions and Special Programs

Repeals the District's additional benefits program.

Financing

Repeals the 0.6 percent contribution rate assessment on employers to finance the additional benefits program.

FLORIDA

HB 7027
(CH 30)

ENACTED March 28, 2012
EFFECTIVE July 1, 2012

Administration

Renames the Agency for Workforce Innovation as the Department of Economic Opportunity.

Renames the state unemployment compensation (UC) system as a "reemployment assistance program."

Requires the Department to establish a numeric score on the initial skills review which demonstrates a minimum proficiency in workforce skills. Provides a claimant with the option to undergo workforce skills training if he or she scores below this standard. Stipulates that workforce skills training will be provided at no cost to individuals in order to improve skills to their minimum proficiency level. Requires the Department to develop best practices, evaluate the training, and report findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2013.

Modifies the confidentiality/disclosure provisions by providing that information revealing an employing unit's or individual's identity is confidential, and that the release of such information must conform to certain Federal regulations.

Extensions and Special Programs

Modifies the term "emergency benefits" to mean benefits which are paid pursuant to Public Law 110-252 and any subsequent Federal law that provides for the payment of Emergency Unemployment Compensation.

Extends the federally-funded temporary extended benefits program based on the total unemployment rate and the "high unemployment period" through March 11, 2012, previously, February 11, 2012. (Retroactive to January 4, 2012.) (Effective March 28, 2012.)

Financing

Allows an employee leasing company to make a one-time irrevocable election to report and pay State unemployment compensation taxes under the respective unemployment account of each client. The election to use the client option would apply to all current and future clients of the employee leasing company and would apply to any unemployment compensation reports and taxes owed beginning in calendar year 2013. An existing employee leasing company is required

to notify the Department of Revenue of its election by July 1, 2012. However, a new employee leasing company is required to inform the Department of Revenue of its election within 30 days of formation. If any employee leasing company fails to make or timely inform the Department of Revenue of its election to use the client option, such entity would be required to report leased employees under the employee leasing company's tax identification number and contribution rate.

Authorizes the Department of Economic Opportunity to non-charge the accounts of employers that are forced to lay off workers due to an oil spill, terrorist attack, or other similar disaster of national significance that is not a declared natural disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Monetary Entitlement

Provides that the denial of benefits to employees of an educational institution are also applicable to employees of a private employer holding a contractual relationship with an educational institution, but only if the base period wages attributable to such services are identified in the quarterly wage report. (Effective July 1, 2013.)

Nonmonetary Eligibility

Authorizes individuals who are union members to satisfy work search requirements by reporting daily to their union hall. Additionally, the work search requirements do not apply to individuals who are temporary layoffs or participating in short-time compensation plans.

Reduces the number of weekly employer contacts from five to three for individuals who reside in a small county and are engaging in systematic and sustained efforts to find work.

Overpayments

Provides that a disqualification for making a fraudulent claim begins with the week the fraudulent claim is made and continues up to one year after the date the Department discovers the fraudulent claim and until any fraudulent overpayments are repaid in full.

Amends the statute of limitations related to the collection of reemployment assistance fraudulent overpayments by providing that the commencement of collections must be initiated within 7 years after the redetermination or decision (previously, 5 years); and for reemployment assistance non-fraudulent overpayments within 7 years (previously, 3 years).

MARYLAND

SB 272
(CH 206)

ENACTED May 2, 2012
EFFECTIVE July 1, 2012

Coverage

Exempts specified employers from the presumption under the Workplace Fraud Act that an employer-employee relationship exists between the employer and an individual doing work for

the employer if the employer presents specified documentation. For the purpose of enforcing the Workplace Fraud Act, the presumption that an employer-employee relationship exists does not apply if an employer produces for inspection:

- A written contract between the employer and a business entity that describes the nature of the work and the remuneration to be paid and includes an acknowledgment by the business entity of its responsibilities.
- A signed affidavit indicating that the business entity is an independent contractor who performs work for other business entities.
- A certificate of status of the business entity that is issued by the State Department of Assessments and Taxation and indicates the entity is in good standing.
- Proof that the business entity holds all required occupational licenses for the work to be performed.
- Establishes procedures and timetables for enforcement activities and resolution of disputes.

Requires, in addition, the employer to provide each individual classified as an independent contractor with the required notice of classification as an independent contractor and the implications of the classifications.

Allows the Commissioner of Labor and Industry to require each employer to identify and produce for copying or inspection all records relevant to the classification of each individual. An employer must comply with the request within 30 business days, or as agreed by both parties. Within 90 days of receiving all requested records, the Commissioner must either issue a citation or close the investigation.

Provides that the employer has 15 days to request a hearing on the citation; the hearing must be held within 90 days of the request, unless the employer waives that right. If no hearing is requested within 15 days the citation becomes final.

Requires the Commissioner to notify a public body that has a contract with the employer only if the Commissioner issues a citation for a knowing citation violation.

OKLAHOMA

**HB 2204
(CH 196)**

ENACTED and EFFECTIVE May 8, 2012

Administration

Allows for electronic notification to employers and claimants, if elected by such parties.

Requires, upon a final determination, that the Commission proceed by levy (previously, by garnishment) to collect any delinquent contribution, penalty, interest, or fees due or owing. The

Assessment Board of the Oklahoma Employment Security Commission, instead of the court, may issue an order to continue or modify the levy.

Requires disclosure of employment information to: employees of any Metropolitan Planning Organization, the Office of Juvenile Affairs for use in assessing results and outcomes of clients and effectiveness of juvenile and justice programs, and vendors that contract with the State for the purpose of providing a labor exchange system supporting operation of an employment service system to connect employers with job seekers and military veterans.

Appeals

Modifies notice requirements for an employer's contribution rate by providing that an appeal to the rate notice must be filed within 20 days after mailing or electronic transmission or the rate will become conclusive and binding.

Monetary Entitlement

Requires an unemployed individual to register for work within 7 days of filing an initial claim for unemployment benefits. Authorizes the Oklahoma Employment Security Commission to waive the requirement under certain conditions, including for individuals in areas not served by an Internet service.

Changes the alternative base period wage requirement for benefit entitlement to require the individual be paid in the base period: (1) taxable wages of any amount; and (2) total wages equal to or more than the annual amount of taxable wages that applies to any calendar year in which the claim for unemployment benefits was filed. (Previously, an individual needed alternative base period wages equal to or more than the highest annual amount of taxable wages that applied to any calendar year in which the claim for unemployment benefits was filed.) (Note: the State taxable wage base increased from \$19,100 to \$20,100 in 2013.)

Provides that if an individual lacks sufficient base period wages in the regular qualifying formula or in its alternative qualifying formula as described in the previous paragraph, any wages paid in the last 4 completed calendar quarters shall be considered the individual's base period wages.

Nonmonetary Eligibility

Provides that in any challenge to a positive drug or alcohol test, the claimant has the burden to prove a breach in the chain of custody, and the employer must provide the chain of custody documentation at the request of a challenging claimant. When the claimant fails to request a confirmation test, the claimant will be ineligible for benefits. If challenged by the claimant, the written report of the drug or alcohol test results shall be acceptable for presentation as evidence with the chain of custody of the sample properly documented.

Authorizes employers to conduct drug and alcohol testing in accordance with the Standards for Workplace Drug and Alcohol Testing Act. Authorizes employers to release records of the tests

as admissible evidence, to comply with a judicial or administrative order, or to other specified persons.

Overpayments

Assesses, on individuals committing fraud by making a false statement or representation or failing to disclose a material fact, a 25 percent penalty on the amount of the original fraudulent overpayment. Individuals are liable for the overpayment, and, when collected, three-fifths of the penalty shall be deposited into the State's Unemployment Trust Fund, and two-fifths into the State's Revolving Fund.

PENNSYLVANIA SB 1310
(Act No. 60)

ENACTED June 12, 2012
EFFECTIVE June 12, 2012,
or as noted

Monetary Entitlement

Provides that "partial benefit credit" means that part of the remuneration paid or payable to an individual with respect to a week for which benefits are claimed which is not in excess of 30 percent of the individual's weekly benefit amount or \$6, whichever is the greater. (Previously, earnings disregarded were the greater of 40 percent of the weekly benefit amount or \$6. (Applies to benefit years beginning after December 31, 2012, and effective January 1, 2013.)

Provides that an application to establish a second benefit year is not valid unless the individual has, subsequent to the beginning of the preceding benefit year, worked and earned wages in employment as defined in the law equal to or greater than 6 times the weekly benefit amount. (Prior law provided that an application to establish a second benefit year is not valid unless the individual has, subsequent to the beginning of the preceding benefit year, worked and earned wages, whether or not such work is in employment as defined in the law, equal to or greater than 6 times the weekly benefit amount.) (Applies to benefit years beginning after December 31, 2012, and effective January 1, 2013.)

Requires that, to requalify for benefits after a disqualifying separation, an individual earn remuneration for services equal to or greater than 6 times his weekly benefit amount in "employment." (Previously, 6 times his weekly benefit amount irrespective of whether or not such services were in "employment.")

Requires an individual, in addition to the other requirements, to satisfy both of the following qualifying requirements: (1) within his base year, was paid \$3,391 in wages and has \$1,688 high quarter wages (previously, \$1,320 and \$800 respectively); and (2) except as otherwise provided, not less than 49.5 percent (previously, 20 percent) of the employee's total base year wages paid in one or more quarters, other than the highest quarter in such employee's base year. (Applies to benefit years beginning after December 31, 2012, and effective January 1, 2013.)

Eliminates the third step-down lower weekly benefit rate, and replaces it with a two-step down lower weekly benefit rate for redetermining the weekly benefit amount for an individual who

does not meet the regular base period qualifying requirements. (Applies to benefit years beginning after December 31, 2012, and effective January 1, 2013.)

Changes the Determination of Rate and Amount of Benefits Table from Parts A-E to Parts A-C. Increases the minimum weekly benefit amount from \$35 to \$70. For the minimum weekly benefit amount, an individual needs in the base period wages ranging from \$1,688-\$1,712 in the high quarter, a total of \$3,391, at least 49.5 percent of the individual's total base year wages paid in one or more quarters outside the highest quarter, and 18 credit weeks. (Previously, \$800-\$812, \$1,320, at least 20 percent, and 16, respectively.) (Applies to benefit years which begin after December 31, 2012, and effective January 1, 2013.)

Maintains the maximum weekly benefit amount at \$573. For the maximum weekly benefit amount, an individual needs in the base period wages ranging from \$14,263 or more in the high quarter, at least 49.5 percent of the individual's total base year wages paid in one or more quarters outside the highest quarter, and 18 credit weeks. (Previously, \$14,898 or more, \$22,480 or more, at least 20 percent, and 16, respectively.) (Applies to benefit years beginning after December 31, 2012, and effective January 1, 2013.)

Provides that the Table shall be extended or contracted to a point where the maximum weekly benefit amount shall equal $66 \frac{2}{3}$ of the average weekly wage for the 36-month period ending June 30 preceding each calendar year. If the maximum weekly benefit amount is not a multiple of \$1.00, it shall be rounded to the next lower multiple of \$1.00. Procedures have been established to use when necessary to extend or contract the Table. (Applies to benefit years beginning after December 31, 2012, and effective January 1, 2013.)

Provides that notwithstanding the provisions relating to extending/contracting the Table, if the maximum weekly benefit amount determined is greater than \$573, the maximum weekly benefit amount shall be subject to the following limitations: (A) for calendar years 2013 through 2019 the maximum weekly benefit amount shall be \$573; (B) for each calendar year 2020 through 2023 the maximum weekly benefit amount may increase from year to year by an amount that is no more than 8 percent of the maximum weekly benefit amount for the preceding year, and (C) if the maximum weekly benefit amount determined is not an even multiple of \$1.00, it shall be rounded to the next lower multiple of \$1.00.

Provides that the total amount of benefits claimants are eligible to receive is their weekly benefit amount multiplied by their number of qualifying credit weeks (which must be at least 18) up to a maximum of 26 weeks. Any claimant with less than 18 credit weeks during his/her base year shall be ineligible to receive any amount of compensation. (Applies to benefit years beginning after December 31, 2012, and effective January 1, 2013.)

Financing

Increases the taxable wage base over 6 years from \$8,000 to \$8,500 for year 2013, to \$8,750 for year 2014, to \$9,000 for year 2015, to \$9,500 for year 2016, to \$9,750 for year 2017, and to \$10,000 for year 2018 and thereafter. (Effective January 1, 2013.)

Except as provided in the following paragraph, the State adjustment factor for a calendar year shall be computed as of the computation date for such year to a tenth of one percent, rounding all fractions to the nearest tenth of one percent, but in no event less than zero according to the formula provided in law. (Prior to calendar year 2013, the State adjustment factor was capped at 1.5 percent.) (Effective January 1, 2013.)

Provides that the maximum State adjustment factor shall be 1.0 percent for calendar years 2013 through 2016, 0.85 percent for calendar year 2017, and 0.75 percent for calendar year 2018 and thereafter. (Effective January 1, 2013.)

Provides that, should the computed State adjustment factor for any year exceed the maximum rate allowed, such excess over the maximum rate shall be added to the computed State adjustment factor for the following year or years. (Effective January 1, 2013.)

Establishes a restricted account in the State Treasury to be known as the Reemployment Fund which shall consist of employee unemployment insurance contributions allocated by the Department of Labor and Industry. Moneys in this fund are appropriated for programs and services to assist individuals to become employed or improve their employment, job search, placement services, educational enhancement, job training and job readiness and workplace skills training; research and studies to improve employment services, the work force and labor market; improvements to the information technology infrastructure; and costs of administering activities and the cost of collecting the contributions. Moneys in the fund shall be continuously available for expenditure of these activities and shall not lapse at any time nor be transferred to any other fund, except if any amount of contributions remain at the end of the calendar year, and are not expended or obligated for expenditure by the next June 30, that amount shall be transferred to the State Unemployment Compensation Fund.

Provides that employee unemployment insurance contributions on wages paid shall be allocated between the Unemployment Compensation Fund and the Reemployment Fund as follows: (1) 95 percent paid from January 1, 2013, through September 30, 2017, shall be deposited into the Unemployment Compensation Fund and 5 percent into the Reemployment Fund to the extent the contributions are paid on or before December 31, 2017; (2) 100 percent paid from January 1, 2013, through September 30, 2017, shall be deposited into the Unemployment Compensation Fund to the extent the contributions are paid on or after January 1, 2018; and (3) 100 percent paid on or after October 1, 2017, shall be deposited into the Unemployment Compensation Fund. (Applicable to contributions on wages paid on or after January 1, 2013, and effective January 1, 2013.)

Establishes the Debt Service Fund as a separate account in the State Treasury. The taxes from the rate of contributions increased by the rate of the Interest Factor assessed to pay interest shall be paid into such fund. (Previously, such interest contributions were deposited in the Interest Fund, which has been eliminated.) Moneys in this fund shall be used in the following priority order and such funds received are appropriated for all the following purposes: (1) for payment of bond obligations and bond administrative expenses; for replenishment of bond reserves; for maintenance of debt service reserves in the amount necessary to maintain an adequate debt service coverage ratio; and for early optional mandatory or other refunding, redemptions or

purchases of outstanding bonds; (2) for the payment of annual interest obligations assessed under Title XII of the Social Security Act; (3) for repayment of outstanding interest-bearing advances received under Title XII of the Social Security Act; and (4) for transfer to the Unemployment Compensation Fund for payment of compensation to individuals. Any amount of moneys remaining in the Debt Service fund at the end of a calendar year shall be transferred to the Unemployment Compensation Fund and credited to the Employers' Contribution Account if the following requirements are met: (1) the balance of interest-bearing Title XII advances is zero at the end of that year; (2) no interest on advances shall be due in the following year; and (3) there are no outstanding bond obligations and bond administration expenses and no such obligations and expenses will be due in the following year.

Revises the Interest Factor provisions. The Interest Factor rate is changed from a variable rate not to exceed 1.0 percent to a variable rate not to exceed the maximum rate allowed which is: 1.1 percent for calendar year 2013 through the year it is determined there are no unpaid Title XII advances or interest, and no outstanding bond obligations and administrative expenses; and not to exceed 1.0 percent for calendar year 2014 through the year it is determined there are no unpaid Title XII advances or interest, and no outstanding bond obligations and administrative expenses. The Interest Factor shall be determined annually. The rate of the Interest Factor for a calendar year shall be the rate necessary to: (i) pay the bond obligations and bond administrative expenses due in that year; (ii) replenish amounts drawn from bond reserves; (iii) maintain an adequate debt service coverage ratio; (iv) fund early, optional, mandatory or other refundings, redemptions or purchases of outstanding bonds that will occur in that year; (v) pay the interest on interest-bearing Title XII advances that is due in that year; and (vi) repay outstanding Title XII advances. (Applies to the calculation of the Interest Factor for calendar year 2013 and thereafter.)

Provides that contributions paid by or on behalf of an employer, other than employee contributions, shall be allocated first to the employer's liability under the requirements of the Interest Factor provisions. The Interest Factor rate shall apply to contributions for any calendar quarter that ends at a time when there are outstanding bonds. (Applies to the calculation of the Interest Factor for calendar year 2013 and thereafter.)

Provides that any amount of additional contributions collected for a calendar year in excess of the amount necessary for the purposes enumerated in (i) through (vi) above for that year may be used for the purposes enumerated in (i) through (vi) above for the following year, and to the extent available, to reduce the amount of additional contributions that would be required for the following year. (Applies to the calculation of the Interest Factor for calendar year 2013 and thereafter.)

Provides that no Interest Factor rate shall be required for any year for which funding is not required for any of the purposes enumerated in (i) through (vi) above. (Applies to the calculation of the Interest Factor for calendar year 2013 and thereafter.)

Revises the trigger determination provision that provides for calculating the trigger percentage to be used in setting surcharge and contribution rates for the contributions required and in setting the benefit reduction required for the following calendar year, by requiring the Secretary of the

Pennsylvania Department of Labor and Industry to: (1) add the principal amount of outstanding bonds and the amount of outstanding Title XII advances, and subtract that sum from the balance in the State Unemployment Compensation Fund; (2) determine the average of the benefit costs for the three immediately preceding fiscal years; and (3) calculate the percentage that the amount determined under paragraph (1) represents of the average of the benefit costs. (Applies to the calculation of the trigger percentage in 2012 and subsequent calendar years for purposes of contribution rates and benefit reductions for calendar year 2013 and thereafter, respectively.)

Revises the trigger rate redeterminations provision to increase the reserve in the Trust Fund as follows:

(1) For calendar years 2013 through the year determined under paragraph (4), if the trigger percentage as of July 1 of the preceding calendar year is less than 250 percent, the rates determined under paragraph (2) shall apply. For calendar years following the year determined under paragraph (4), if the trigger percentage as of July 1 of the preceding calendar year is less than 250 percent, the rates determined under paragraph (3) shall apply.

(2) The secretary shall redetermine the rates such that the surcharge assessed shall yield \$100 million, the additional contribution shall yield \$225 million, the employee tax shall yield \$166.6 million, and the benefit reduction shall yield \$52 million.

(3) The secretary shall redetermine the rates such that the surcharge assessed shall yield \$138 million, the additional contribution shall yield the sum of \$310 million plus the amount determined under paragraph (5), the employee tax shall yield \$230 million, and the benefit reduction shall yield \$72 million.

(4) The calendar year determined under this paragraph shall be the earliest calendar year subsequent to December 31, 2012, to which all of the following apply:

(i) There is no unpaid balance of Title XII Federal advances or interest thereon.

(ii) There are no outstanding bond obligations and no bond administrative expenses, and no such obligations and no such expenses will be due in the following year.

(5) The amount determined under this paragraph shall be the sum of:

(i) 20 percent of the amount paid from the Unemployment Compensation Fund during the 60 consecutive calendar months ending on June 30 of the year in which the redetermination occurs, plus

(ii) 20 percent of that portion of the amount paid from the Unemployment Compensation Fund during the immediately preceding 60 consecutive calendar months that is not recovered by additional contributions paid for calendar years through the calendar year in which the redetermination occurs.

(Applies to the redetermination of contribution rates and the benefit reduction to occur in 2012 and each fifth year thereafter for purposes of contribution rates and the benefit reduction for calendar year 2013 and thereafter, respectively.)

Provides that the Department will mail or electronically transmit the notice of an assessment to employers within 15 days after making the assessment. (Previously, such notices were required to be sent by registered mail.) (Applies to notices of assessment issued on or after June 12, 2012.)

Provides that liens imposed for contributions, interest, and penalties shall continue and shall retain their priority without the necessity of refileing or revival. (Under prior law, liens continued for 5 years from the date of entry and were allowed to be revived and continued in the manner now or hereafter provided for the renewal of judgments or as provided in The Fiscal Code, as amended.) (Applies to all liens filed or revived within the 5-year period immediately preceding June 12, 2012, and all liens filed or revived on or after June 12, 2012.)

In addition to the methods of collection authorized in State law, the Department may collect contributions, interest, penalties, and other liabilities due as provided under the U.S. Treasury's Treasury Offset Program (relating to authority to make credits or refunds), including and by any other means available under Federal or State law.

Provides for unemployment compensation solvency bonds. Allows bonds to be issued if the Department reasonably expects that the issuance of bonds to obtain funds to pay compensation or to repay Title XII Federal advances, including interest, would result in a savings to employers, as an alternative to borrowing by means of Title XII Federal advances or repayment of the Federal Title XII advances and interest by other means. The bond proceeds shall be used to repay the principal and interest of Title XII Federal advances, and any balance shall be deposited into an unemployment compensation program fund to: repay the principal and interest of previous Title XII Federal advances, pay unemployment compensation benefits, pay bond administrative expenses, redeem or purchase outstanding bonds, and pay bond obligations. The maximum term of the bonds shall not exceed 20 years. The total principal amount of bonds outstanding for all bond issues may not exceed \$4.5 billion. The authority to issue bonds expires December 31, 2016.

Adds to the term "compensation" the following definition: to the extent permitted by law, that part of the principal owed on bonds that is attributable to repayment of the principal of advances under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. Section 1321 et seq.), exclusive of any interest or administrative costs associated with the bonds.

Establishes an unemployment compensation amnesty program. The amnesty period is 3 consecutive calendar months designated by the Department that commences on June 14, 2013. The Department must establish guidelines to implement the program and publish them at least 90 days before the amnesty period begins and notify all employers and claimants who are known to have liabilities to which the program applies.

Provides that the program applies to both employer and claimant liabilities, however, certain liabilities are excluded. Applicable employer liabilities include: (1) unpaid contributions due for calendar quarters through the first quarter of 2012, for which employee information was reported or acquired through an audit; (2) unpaid contributions due for calendar quarters through the first quarter of 2012, for which employee information was not reported or not acquired through an audit; (3) unpaid reimbursements due on or before April 30, 2012; (4) unpaid interest due on contributions paid late for calendar quarters through the first quarter of 2012 or on reimbursement that was due on or before April 30, 2012, and was paid late; and (5) unpaid penalties due for reports filed late for calendar quarters through the first quarter of 2012.

Applicable claimant liabilities include: (1) A fault overpayment of compensation from a notice of determination of overpayment issued on or before June 30, 2012, to the extent repayment has not occurred; (2) a nonfault overpayment of compensation from a notice of determination of overpayment issued on or before June 30, 2012, to the extent repayment has not occurred; (3) compensation paid for calendar weeks through the week ending June 30, 2012, for which a notice of determination of overpayment has not been issued, but the claimant acknowledges that the compensation was overpaid; and (4) unpaid interest due on an overpayment of compensation that was repaid on or before June 30, 2012.

Establishes procedures for participation, the payment amounts required, and the terms and conditions of amnesty.

Overpayments

Provides that no administrative or legal proceedings for the recovery and recoupment of an overpayment of compensation due to fault, including interest, shall be instituted after the expiration of ten (previously 6) years following the end of the benefit year with respect to which such sum was paid. (Applies to benefit years beginning on or after June 12, 2012.)

PENNSYLVANIA SB 1375 ENACTED and EFFECTIVE February 9, 2012
(CH 2012)

Extensions and Special Programs

Extends the ending date for the federal-state extended benefits (EB) program provisions concerning the EB “on” and “off” indicators to temporarily use a 3-year look-back for both the mandatory indicator based on the insured unemployment rate (IUR) and the optional indicators based on the seasonally adjusted total unemployment rate (TUR) for weeks of unemployment beginning on or after December 17, 2010, by changing the ending date to on or before April 30, 2012. (Previously, ending on or before December 31, 2011.) (Retroactive to December 31, 2011.)

UTAH SB 129 ENACTED and EFFECTIVE February 16, 2012
(CH 15)

Financing

Provides that if the employer is a new employer, the basic contribution rate shall be based on the average benefit cost rate experience by employers of the major industry, as defined by department rule, to which the new employer belongs.

Provides that for calendar year 2012 only, if the calculation of the social contribution rate is greater than .004, the social contribution rate for calendar year 2012 is .004.

Provides that if the actual reserve fund balance as of June 30 preceding the computation date is insolvent or negative, or if there is an outstanding loan from the Federal Unemployment Account or other lending institution, the Utah Unemployment Insurance Division shall set the reserve factor at 2.0000 until the actual reserve fund balance as of June 30 preceding the computation date is determined by the Division to be solvent or positive and there is no outstanding loan.

Reduces the maximum unemployment insurance contribution rate for an employer from 9.0 percent plus the social contribution rate to 7.0 percent plus the social contribution rate beginning in calendar year 2012.

Provides that if an employer makes a contribution payment based on the overall contribution rate in effect at the time the payment was made and it retroactively reduces the overall contribution rate for that payment, the Division:

- May not directly refund the difference between what the employer paid and what the employer would have paid under the new rate; and
- Shall allow the employer to make an adjustment to a future contribution payment to offset the difference between what the employer paid and what the employer would have paid under the new rate.

Allows the Division to accept an offer of compromise from an employer or claimant to reduce past due debt under certain circumstances, and requires the Division to make rules allowing for an offer of compromise.